(3)

C/E/1007

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION NO. 2824 of 2005

PETITIONER

Smt. Tara Yadav, W/o Mangal Ram Yadav, Aged about 40 years, R/o Rampur, Post Tanakhar, Tehsil Khatghora, District Korba (Chhattisgarh).

Versus

RESPONDENTS

1. State of Chhattisgarh, Through Secretary, Department of Women and Child Welfare, D.K.S. Bhawan, Mantralaya, Raipur(Chhattisgarh)

2. Collector, Korba (C.G.).

3. District Women & Child Welfare Officer, Korba (C.G.).

4. Project Officer, Integrated Child Welfare Project, Podi, Uproda, District Korba (C.G.).

P.R. No. 2953/25 Presented by Shri S.R. Jaiswal dated 25/6/25

एस. के. शुक्ला अधिवक्ता बिलासपुर (छ.ग.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

1. **PARTICULARS OF THE PETITIONER:-**

As per the cause title above.

2. **PARTICULARS OF THE RESPONDENTS: -**

As per the cause title above.

29.6.05

CLERK to A. G. BILASPUR

XI-HC-78

(43)
(44)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P.No.2894/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4.7.2006

Heard Shri S.R.J. Jaiswal, Advocate for the petitioner.

Shri A.S. Kachhawaha, Government Advocate for the State.

Return has already been filed on behalf of the respondents.

Heard learned counsel for the parties for final disposal of the petition.

The grievance raised by the petitioner, who was working as Aganbadi Worker at Rampur Centre, Tehsil Katghora, District Korba, in this petition is that the petitioner has been terminated by respondent No.4-Project Officer, Integrated Child Welfare Project, Podi, Uproda, District Korba w.e.f. 22.9.2003 without affording any opportunity of hearing & conducting any enquiry and the impugned order has been passed in violation of the principles of natural justice.

The case of the petitioner is that she was working as Aganbadi Worker at Village Rampur since last 16 years. On 30.12.2003 some villagers, who were having inimical relations with the petitioner, made a complaint against the petitioner on which respondent No.4-Project Officer without conducting any enquiry terminated the services of the petitioner vide impugned order mentioning therein that order is passed on the instruction of the Collector and the impugned order is against the principles of natural justice.

Reply has been filed on behalf of the respondents in which it has been mentioned that the petitioner was caught red handed while she was illegally selling the Daliya of Aaganbadi Center, Rampur in the village and therefore, she was terminated from services by impugned order after following the procedure for removal.

31/12/07

28/11/07

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(4-5)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Having heard learned counsel for the parties, I have perused the record.

On 27.5.1996 the erstwhile Department of Women & Child Welfare, State of M.P. issued the notification regarding terms & conditions of the appointment and removal of the Aaganbadi Worker (Annexure R-1) and the same has been adopted by the State of Chhattisgarh. As per the said notification, the procedure has been prescribed for removal of the Aaganbadi Worker. Clause (1) of the same contemplates that on receiving serious compliant against any Aaganbadi Worker/Sahayika, the Gram Panchayat after passing the resolution send the same to the Supervisor. Clause (2) contemplates that on receiving complaint, the Supervisor shall enquire into the complaint within a period of 15 days and thereafter if it is found correct, the Supervisor will forward his recommendation to the Janpad Panchayat along with the resolution of Gram Panchayat. Clause (3) contemplates that after receiving the papers from the Supervisor within a week the Janpad Panchayat shall pass the order for removal. Clause (4) envisages that if any serious complaint is received by the Supervisor against the Aganbadi Worker/Sahayika, he shall place it before the Gram Panchayat for voting and after the consent of the Gram Panchayat the recommendation shall be sent to the Janpad Panchayat for removal.

If we look into the impugned order whereby the services of the petitioner were terminated, no such procedure has been adopted. Even in the return filed by the respondents it has not been mentioned that the said procedure has been adopted, it simply says that the order of termination was passed on the instruction of the Collector dated

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(96)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

30.12.2003. The services of the petitioner has been terminated, as she was found selling Daliya illegally in the village.

As the Aganbadi services are under the Janpad Panchayat and the constitution of Panchayats comes within Part-IX of the Constitution of India, therefore, their constitution is governed under Article 243 of the Constitution of India and Article 243-A to 243(O) of the Constitution relate to functioning and constitution of Panchayats. Janpad Panchayat being a creation of the Constitution, its employees are entitled to benefits of Article 311 (2) of the Constitution, therefore, any order of termination of services, without affording opportunity of hearing is bad in law and liable to be quashed.

In the present case, even the petitioner was not given any opportunity to show cause against her misconduct and without holding any enquiry the services of the petitioner has been terminated violating the principles of natural justice i.e. without giving any opportunity to the petitioner to face the enquiry and reply the allegations levelled against her. Therefore, in the present case neither the procedure, as envisaged under the Government notification nor the principles of natural justice have been followed before passing the impugned order.

In the result, the impugned order is liable to be quashed and it is hereby quashed. However, it is made clear that the respondents shall not be precluded from conducting the enquiry and passing the appropriate orders in accordance with the rule.

Consequently, M.(W.)P. No.2345/05 and I.A. No. 5593/05 & 1545/06 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

31/12/07

28/12/07